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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Enhancing the effectiveness of the principle of periodic and genuine elections

Report of the Secretary-General

Addendum

Guidelines for Member States considering the formulation of requests for electoral assistance

1. The General Assembly, in paragraph 18 of resolution 46/137, requested that guidelines and terms of reference be elaborated for United Nations electoral involvement. The guidelines are designed to assist Member States considering the formulation of specific requests for United Nations electoral assistance. Based on experience to date, six basic operational concepts for United Nations electoral assistance can be defined: (a) organization and conduct of elections; (b) supervision; (c) verification; (d) following the electoral process; (e) providing coordination and support to the activities of international observers affiliated with other organizations; and (f) technical assistance. These guidelines are subject to revision and refinement as the United Nations acquires further experience in the electoral assistance field.

2. In order to undertake any of the above operations, several conditions must be satisfied. Primary among these is that a specific request from the Government is essential in all cases. With the exception of the provision of technical assistance, the involvement of the United Nations should be supported by the broader body politic within the country. While consideration must be given to particular local customs, circumstances and traditions, the basic legal framework for the electoral process must be in conformity with the relevant principles enunciated in fundamental international human rights agreements.

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3. In every type of operation, proper consideration will be given to the participation of other international, multilateral, regional, parliamentary or non-governmental organizations as well as Member States in sending observers or providing technical or financial assistance to the electoral process. Efforts will be made to achieve adequate coordination and avoid duplication of efforts.

A. Organization and conduct of an electoral process

4. The organization and conduct of an electoral process is the most complex type of United Nations electoral assistance. It has been utilized in two special cases - Western Sahara and Cambodia - of which only the latter is currently being implemented. This type of operation implies that the United Nations assumes a role normally fulfilled by national election authorities which includes the establishment of a system of laws, procedures and administrative measures necessary for the holding of a free and fair election as well as the actual administration of the electoral process. Up to now, the full cost of such operations has been borne by the United Nations. These operations are of such an exceptional nature that they require a tailor-made design, and it would be difficult to define generally valid guidelines.

5. This type of operation requires considerable lead-time since the presence of the United Nations is required not only during all stages of the electoral process, but well before, due to its responsibility for organizing the elections. In the case of Cambodia, the electoral preparatory mission visited Cambodia in November 1991 for elections planned to take place in May 1993. This 18-month lead-time was probably the minimum time necessary for planning and implementing such a complex operation.

B. Supervision of an electoral process

6. Supervision was frequently used in the context of decolonization operations, such as those in Cameroon under British administration, Rwanda-Urundi, Togo and Western Samoa. It was utilized more recently in Namibia. This concept applies to operations in which not only the results of the elections, but all steps of the process, in both its political and electoral aspects, require certification by the Special Representative of the Secretary-General to confirm the validity of certain crucial aspects. These aspects must be clearly identified at the outset. This type of operation is not undertaken in an independent country, for such certification clearly encroaches upon State sovereignty.

7. The complexity of this type of operation requires that a preparatory mission visit the country to verify fulfilment of the prerequisites established by the General Assembly, to discuss with the authorities the specific terms of reference of the mission and the Status of Mission Agreement, to gather information on the proposed organization of the electoral process and on geographical and communication aspects that are necessary for

preparing an operational plan, and to obtain data necessary for the preparation of cost estimates. This information will allow the Secretary-General to prepare and submit a report to the competent organ, requesting a mandate to undertake the operation. Once a specific mandate has been provided, a Special Representative will be appointed.

8. Terms of reference may vary from case to case, but will typically include such aspects of the electoral process as the impartiality of the electoral authorities; the complete freedom of organization, movement, assembly and expression of political parties and alliances; the possibility of the parties to satisfy themselves as to the integrity of the electoral process by being present at all relevant stages through party observers; and the fairness of access to State radio and television, both in terms of the timing and length of broadcast. The use of other public resources for political purposes will also be the subject of observation. The terms of reference will also include verification that election rolls are properly drawn, and that qualified voters are not denied identification and registration cards or the right to vote; reporting to the electoral authorities on complaints, irregularities and interference reported or observed, and, if necessary, to request electoral authorities to take action to resolve and rectify them; and observing all activities related to the organization of the poll, the electoral campaign, the poll itself and the counting, computation and announcement of results.

9. The plan of operations for a supervision mission is similar to that for a verification mission since the Special Representative will require detailed information in order to fulfil the certification function. In the case of Namibia, the very special circumstances required extensive coverage, with a ratio of close to one observer to one observed. For less extreme circumstances, less extensive approaches may be devised. Since the United Nations must be present from the earliest stages of the electoral process, a lead-time of at least four months is essential.

C. Verification of an electoral process

10. Verification operations are conducted in a sovereign State at the request of its Government, such as in Nicaragua, Haiti and Angola (as well as some previous Trusteeship operations). The electoral process is organized and administered by a national organ, and the United Nations is asked to verify the freedom and fairness of specific aspects of the electoral process. A preparatory mission must be undertaken as described in paragraph 7 above. A Special Representative is appointed for such operations and a Status of Mission Agreement must be prepared. Verification is done through extensive chronological and geographical coverage of the electoral process and by creating a network of observers throughout the country. Rigorous statistical techniques, e.g., quick-counts and data banks of complaints presented to the electoral authorities, are utilized in this kind of operation. Both supervision and verification activities may be part of broader missions with other peace-keeping components, as in Angola.

11. The terms of reference of a verification mission vary from case to case, but they typically include aspects of the electoral process described in paragraph 8 above. However, regular reporting on the freedom and fairness of the different stages of the electoral process is an essential component of verification operations. An extensive information network is an integral part of verification since detailed factual information and careful analysis are essential for the preparation of such reports. A typical electoral verification mission might issue evaluation reports covering the period of the organization of the electoral structure, the organization of political parties and the selection of candidates, and the adequacy of the registration process. Shortly before the polls, a report evaluating the electoral campaign and the fairness of the electoral process is usually issued. After polling is concluded, a final report is issued commenting on the conduct of the polls, the counting procedures and the final election results. Reporting procedures for verification missions should be clearly spelled out in the terms of reference.

12. Given the strict reporting requirements of the verification approach, a solid factual base is essential and the plan of operations should provide for extensive chronological and geographical coverage of the electoral process. However, it should be noted that the kind of omnipresence that was achieved in Namibia is difficult to replicate in standard verification missions, and United Nations observers will not be able to make complete and direct observations of all aspects of the electoral process. The success of a verification mission depends very much on the existence of a local network of observers from political parties or other social organizations that will be present at every relevant stage of the process. The verification mission can be defined as conducting a "second line" or indirect observation, concentrating its activities on following and evaluating situations raised by national observers and providing an alternative means of conveying requests and complaints to the appropriate authorities.

13. In carrying out its mandate to verify the impartiality of electoral authorities in all aspects and stages of the electoral process, such a mission should evaluate the criteria for the appointment of electoral authorities at the regional and provincial levels. The fairness of controversial actions or significant decisions at both national and provincial levels should be similarly evaluated. In order to verify that political parties and alliances enjoy complete freedom of organization, movement, assembly and expression without hindrance or intimidation, the mission should establish offices in regional or provincial capitals and station a number of observer teams in each. These teams, as well as headquarters personnel, will establish regular contacts with political parties and social organizations at the national and local levels and will carry out a programme of village and municipality visits throughout the country. They will observe all important political rallies and other relevant political activities and verify the observance by all parties of the stipulations of the electoral law and any code of conduct that might have been agreed upon among the parties or established by the electoral authorities. The above-mentioned visits and contacts are expected to have a significant impact on confidence-building. This impact should be reinforced

by a public information campaign to inform the population of the objectives and working procedures of the mission. To verify that all political parties and alliances have fair access to State radio and television and that there is equitable allocation of broadcast timing and length, the mission will verify the distribution of time among parties, and the content of news broadcasts and the fairness of tariffs will be analysed. The mission will also evaluate complaints received on the use of other public resources for political purposes, which will be an additional subject of observation by the provincial offices and the electoral teams. In carrying out its mandate to verify that elections rolls are properly drawn and that qualified voters are not denied identification and registration cards or the right to vote, the teams will visit registration centres periodically and evaluate complaints received or irregularities observed. It is therefore necessary to complete the deployment of the electoral component before registration begins. In order to follow the complaints, irregularities and interferences reported or observed, the regional/provincial offices will receive complaints and requests presented by political parties or relevant social organizations, analyse their relevance, provide complementary information and transmit them to the electoral authorities and/or appropriate parties. Action taken in relation to situations that might significantly affect the fairness of the elections will be carefully followed. A data bank will incorporate the complaints received, and periodic analysis of trends and the evolution of the situation will be produced periodically.

14. During the polling period, the mission will be reinforced with an additional number of observers to cope with new demands related to the conduct of the poll. A significant number of additional observers will be recruited from other components of the mission, from UNDP personnel in the country or neighbouring countries. The remainder will be seconded from Member States and the Secretariat. The additional observers, who should arrive a week to 10 days before the elections, will visit a significant proportion of polling places. They should have full access to all stages of the poll and should satisfy themselves with the integrity of the poll. They should follow the count at selected polling stations and develop a projection of results (quick count) for internal control purposes.

15. Similar to supervision, the lead-time for verification missions is significant owing to the need for chronological coverage. Since it may take several months to obtain the necessary mandate for such a mission, a request from a Member State should be received at least four months prior to the beginning of the registration process in order to allow proper time for preparation of the mission.

D. Following an electoral process

16. In several recent cases, the Secretary-General has asked the Resident Coordinator of the United Nations system in a country requesting observers to "follow the electoral process and report to him on its results". This approach is comparable to several past cases where the Trusteeship Council

sent small missions consisting of representatives of Member States who traveled to the Territory in question for a relatively brief period, sometimes only a few days. Although the term "observation" was used in those cases, the phrase "following the electoral process" is preferable, since the concept of observation is frequently used by other organizations to describe rather different types of missions. This type of operation provides a possible response to a Member State request that may be used in cases where the lead-time is too short to allow the electoral process to be adequately followed either chronologically or geographically. However, this should not be considered a general rule, and the Resident Coordinator might be asked to follow and report in cases with a more adequate time lead. The main purpose in asking the Resident Coordinator to follow the electoral process and to support his activities with political affairs officers from Headquarters and/or electoral consultants is to contribute to confidence-building and to demonstrate support for the democratization process in cases where the presence - even at a symbolic level - of the United Nations is requested by the Government and supported by other parties to the electoral process.

17. In these cases, the terms of reference will be rather brief and general. Given the restricted scope of the involvement and limitations on the availability of factual data on which to base reports, this approach does not require detailed evaluation and public reporting on the freedom and fairness of the electoral process. This should be clearly stated in the terms of reference, which should specify that the reports to be prepared by the Resident Coordinator will be addressed exclusively to the Secretary-General through the Focal Point. Although the presence of the United Nations may contribute to confidence-building, it should not be construed as the equivalent of verification, with its implicit legitimation of the electoral process and its results. The terms of reference should describe the additional support (political affairs officers, electoral consultants) that the Resident Coordinator will receive and the ways in which information on the electoral process will be collected (interviews with electoral and government authorities, political parties and relevant personalities, visits to the countryside and interviews with local authorities, sharing of information with other observer groups, etc.).

18. The following of an electoral process by the Resident Coordinator and the supporting officers/consultants does not require a detailed plan of operations. In the three approaches previously discussed, information on the electoral process came either from primary sources or from the systematic collection, analysis and evaluation of information from secondary sources such as party poll-watchers, etc. Given the limited time and resources available in the case of election observation, most of the information that the Resident Coordinators will use in preparing their internal reports will come from secondary sources - primarily interviews before and after the elections with electoral and governmental authorities, political parties and groups of national or international observers. It might be useful to provide a check-list of aspects on which information should be gathered and included in the internal report to the Secretary-General. Such a check-list will be developed as part of the operational guidelines to be prepared by the Electoral Assistance Unit.

19. A Status of Mission Agreement is not necessary for this type of operation and staffing requirements are limited. Preparatory missions are normally not required and in most cases Secretariat staff or external consultants are used. The lead-time may be considerably shorter than for verification or supervision missions, although if the Resident Coordinator needs special support, a minimum of two months is essential.

E. Provision of support to other international observers

20. This approach can be used in cases where several countries and intergovernmental or non-governmental organizations have been invited by a Government to send observers for the electoral process and are willing to do so. In this context, a more or less formalized structure can be created in order to provide both an umbrella and a common symbol, thus reinforcing the confidence-building effects of the international observer presence. An integrated and coordinated operation will also increase the efficiency and coverage of observation efforts. UNDP, with its capabilities and well-developed presence in most developing countries, can usually provide a focal point for such coordination and support efforts.

21. Terms of reference will be replaced by an agreement among the participating organizations and a project document detailing the specific support to be provided. These terms will vary from case to case, depending on the specific circumstances. However, three particular issues must always be addressed. First, an effective coordinating structure must be established. This structure - in most cases of an advisory nature - will vary depending on the participating countries and institutions and their various degrees of interest and involvement. Second, a technical secretariat should be created and provided with the necessary resources for organizing support for the cooperative activities. The secretariat can be staffed with officers or consultants provided through the Electoral Assistance Unit, UNDP or participating organizations. Third, observer delegations and the electoral authorities must agree in advance on specific reporting arrangements. In principle, each delegation should prepare reports based on its own standard procedures while also ensuring that reporting does not unduly influence the electoral process.

22. Operationally, support can be limited to the provision of the observers that arrive on dates close to election day. However, this approach can also be used for collaboration in the observation of other stages of the electoral process if the other participating organizations agree to have a presence in the country during those stages. If such is the case, the plan of operations will tend to be a simplified version of the one already described in the case of verification. In the more common case where participating organizations send observers for a shorter period, with the intention of covering the last part of the political campaign, the polling and vote counting, the plan of operations should cover the recruitment of volunteers among UNDP and other organizations within the country who might be willing to participate in the observation process, preparation of briefing material for the arriving

observers, design and production of banners and symbols identifying the observers, the scheduling of interviews and briefing sessions with electoral and political figures, the preparation of routing plans for visits during election day so as to cover the country as extensively as possible, solving accommodation, transportation and communication problems as required, the design of forms for collecting information and of systems for its analysis and evaluation, and the organization of meetings for participants in order to share their experiences.

23. Although a Status of Mission Agreement is not generally needed for these operations, it would be useful to have a Statement by the Government or the issuance of a Code of Conduct for International Observers that states their duties and privileges. As staffing requirements will be limited, Secretariat staff or external consultants will be used for these types of operations. The necessary lead-time will vary between two and four months, depending on the characteristics of the operation.

F. Technical assistance in electoral matters

24. The most common type of United Nations involvement in electoral matters is technical assistance activities. Based on the specific electoral requirements of the country, such activities can include the provision of analyses, advice, equipment or training to governmental institutions. Such assistance might be provided directly or it might be a companion feature of major verification missions, as in Haiti and Angola. Past technical assistance activities have included the establishment and maintenance of civic and electoral registers, electronic electoral data processing, legal and logistical assistance, civic and voter education, communications and vote-counting technologies, public information, procurement of voting equipment and materials, and provision of logistical support to the electoral process. These activities can be classified in two categories: (a) those which contribute to national capacity-building through the establishment of new electoral institutions or the enhancement of existing capabilities, and (b) those which simply provide legal, constitutional, logistic management or technical advice as well as all types of electoral equipment, materials and supplies. These activities are carried out by the Centre for Human Rights, the UNDP Office of Project Services, the Division of Economic and Social Development or the United Nations Volunteers on the basis of existing mandates. They are normally funded from national indicative planning figures (IPFs) in the case of small-scale activities and through cost-sharing in larger projects.

G. Additional considerations

1. Status of Mission Agreement

25. A Status of Mission Agreement is essential for organization and conduct, supervision or verification operations. In other cases, it may not be

required, given the small size of the operation. Such agreements should be completed between the Government concerned and the United Nations in order further to clarify the conditions under which the mission will operate. Among the conditions to be addressed are the unrestricted entry and exit of mission property, unrestricted freedom of movement of mission personnel, equipment and means of transport throughout the country; the right to use various means of communication to disseminate information about the work of the mission; the authority of the mission to have unrestricted contact with individuals in any part of the country and the authority to receive communications from any individual or group of people or organization and the right to convene meetings; the authority to gather relevant information by whatever legal means necessary; the right to make recommendations to the electoral or governmental authorities based on examinations of particular cases or situations; the right to fly the United Nations flag and use its logo at United Nations locations, including regional and subregional offices, vehicles, aircraft and vessels; acceptance of United Nations registration of any means of transport and United Nations licensing of the operators thereof; the right to unrestricted communication by radio, satellite or other means of communication with United Nations Headquarters and between the various regional and subregional offices and to establish connections with the radio and satellite network of the United Nations, telephone, telegraph, and others; and the right to make arrangements for the transmission of private correspondence sent to and from mission personnel. The Government will be informed of these arrangements and will not censor any communications of the mission and its members.

2. Staffing of missions

26. For verification and supervision missions, Member States have provided elections observers during the polling stage for periods of about two weeks. Personnel who follow the electoral process during all its stages, which implies a residence of several months in the country, have been seconded from the Secretariat or recruited externally. The possible use of observers from Member States for longer periods is now being considered, based on an approach similar to that currently used for military and police personnel. The Member State providing the observers would cover their salaries, while the United Nations would cover travel and per diem expenditures. Electoral verification activities may be part of broader missions with other peace-keeping components. There are many electoral activities that might be supported by the military or police components of such missions without disrupting their normal activities. For instance, joint missions could easily be organized for visits to villages or some military or police observers could join the ranks of election observers on polling day. Such use of military or police components, as well as greater use of United Nations volunteers as in Cambodia, could have significant impact on mission budgets.

27. As noted in the appropriate sections above, staffing requirements are limited for the following of electoral processes and the provision of support to other international observers. Therefore, Secretariat staff or external consultants will be used. A roster of experts that includes candidates suggested by Member States is being developed.

3. Coordination of technical assistance with other approaches

28. Technical assistance activities have been examined at length in a separate document prepared jointly by UNDP and the Electoral Assistance Unit. They will therefore not be discussed here in detail.

29. However, it should be noted that there is an important role for UNDP in this area. In most other fields of assistance, donors tend to concentrate on specific areas or individual projects, and it is unusual to find development projects supported by multiple donors. In the electoral area, the opposite is true. In Angola, for example, approximately 10 countries and/or intergovernmental organizations contributed in different ways to the electoral process. A further consideration is that the national institutions responsible for the organization of first-time elections are usually new, and have little or no experience in organizing multi-party elections and even less in the administration of complex multi-donor assistance programmes. It is not uncommon to experience a protracted lack of communication in which electoral organizations are unable to define their needs precisely and donors insist on having clearly elaborated budgets and requests. Preparatory missions can gather the information necessary for the preparation of a project document and discuss cost-sharing possibilities with interested donors.

30. There is considerable synergy in the combination of technical assistance with several of the approaches to observation. A technical assistance project reinforces and facilitates verification, as the experience in both Haiti and Angola demonstrates.